



Docket No.: 03980/100M185-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
David Pelz

Application No.: 10/532,942

Confirmation No.: 2651

Filed: August 23, 2006

Art Unit: 3711

For: GOLF BALL MARKING SYSTEM

Examiner: N. F. Legesse

DECLARATION OF DAVID PELZ UNDER 37 C.F.R. 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

David Pelz declares under penalty of perjury under the laws of the United States of America as follows:

(1) I attended Indiana University on a four-year golf scholarship from 1957 through 1961. I majored in physics during my undergraduate studies (3.2 GPA on a 4.0 system), with a minor in mathematics. After college I was employed by NASA, Goddard Space Flight Center in Greenbelt Maryland, as a research scientist for 14.5 years, during which time I was elevated to "Principle Investigator" on two international satellite programs. I received a one year leave of absence from NASA to pursue "advanced education in business" in 1975, and started a career in golf research immediately thereafter. I have been employed in space research (14 years), then golf research (34 years) continuously since the summer of 1961, and upon such research I founded the "Dave Pelz Scoring Game Schools" in 1986. My schools have since become the premier short game and putting schools in the world, as they have been continuously driven and supported by research and science (unique in the game of golf). I have coached over 100 PGA TOUR professionals during my teaching career, including Phil Mickelson, Vijay Singh, Steve Elkington, Mike Weir, Payne

Stewart, Andy North and Tom Kite, and currently employ over 30 in our teaching company (Pelz Golf, including the Pelz Golf Institute, within which we continue to conduct research on the game). In light of my background, I consider myself to be an expert in golf instruction.

(2) I am the inventor on the present application and am familiar with the subject matter and claims of the present application.

(3) I reviewed the Examiner's rejections in the action of August 8, 2008. The Examiner rejected claims 1, 2, and 13 as being obvious over the combination of Pettigrew et al., U.S. Patent Applications Publication No. 2001/0036870, and Koch, U.S. Patent Serial No. 5,013,046. In making the rejection, the Examiner concluded that “[w]hen these two references are combined the claimed intended use of the markings would obviously be met” (Office action, p.3, l.23 – p.4, l.2) and “Pettigrew is one reference that teaches the use of two equatorial o-rings (112) that meets the intended use of Applicant's recitation in claim 1” (Office action, p.4, l.10-11).

(4) It is my understanding that the “intended use” referred to by the Examiner is recited in the “whereby” clause of claim 1. Claim 1 recites, among other things, “whereby the movement of the o-rings when a ball is rolling indicates whether or not a ball has been squarely struck, the polar markings being sufficiently large so that they become visible to the golfer if side spin is imparted to the ball, with the extent of visibility of the polar markings indicating the amount of side spin imparted to the ball.” This clause recites not merely an intended use but two functional features of the claimed golf ball – (1) “the movement of the o-rings when a ball is rolling indicates whether or not a ball has been squarely struck” and (2) “the polar markings being sufficiently large so that they become visible to the golfer if side spin is imparted to the ball, with the extent of visibility of the polar markings indicating the amount of side spin imparted to the ball.”

(5) While the two equatorial bands taught by Pettigrew et al. are capable of performing the first function, Pettigrew et al. do not provide “polar markings being sufficiently large so that they become visible to the golfer if side spin is imparted to the ball, with the extent of visibility of the polar markings indicating the amount of side spin imparted to the ball.” As taught in the present

specification, “the amount of side-spin (or turn) imparted to a ball at impact determines how much of the polar o-rings become periodically visible to the golfer, as the putt rolls.” (P.10, 1.7-9). The specification further teaches,

An important advantage of the balls marked as shown in Figures 1 and 2 is that the visual effect created by the polar markings provides a quantitative indication of how much side spin was imparted to the ball by the putter (e.g. of how bad the stroke was). As balls containing polar markings rotate, the visual dominance of the pole markings increases proportionately to the amount of initial side spin imparted to 10 the ball at impact. This indicates to the golfer how much side spin his or her stroke imparted to the putt. The greater the side spin, the more obvious the wobble. A perfect putt will exhibit no wobble as the polar markings stay essentially invisible to the golfer. (P.6, 1.7-9)

Pettigrew does not teach polar markings in conjunction with the bands 112. Further, the target marking 114 of Pettigrew is not “sufficiently large so that they become visible to the golfer if side spin is imparted to the ball, with the extent of visibility of the polar markings indicating the amount of side spin imparted to the ball.” Indeed, Pettigrew teaches “[s]uch putt target marking 114 is equipped with a width no greater than a width of a space defined between the bands 112.” (Paragraph [0029], Fig. 1).

(6) Koch teaches a multiple mark golf ball “with a multitude of separate and distinct identifying marks on the cover being spaced-apart so that at least one mark is visible to the eye no matter how the ball lies.” (Abstract). The markings taught by Koch all have a size on the order of a dimple. (See Figs. 1-10). Simply, the markings taught by Koch are not “sufficiently large so that they become visible to the golfer if side spin is imparted to the ball, with the extent of visibility of the polar markings indicating the amount of side spin imparted to the ball.” Thus, even if Koch was combined with Pettigrew the result would be a golf ball with two equatorial bands and a multitude of dimple sized identifying marks on the cover being spaced-apart so that at least one of the simple sized marks is visible to the eye no matter how the ball lies or how well or how badly it is rolled. This combination would not be capable of performing the recited function of “indicating the amount of side spin imparted to the ball.”

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at Spicewood, TX, on this 19th day of February 2009.

Dated: February 10, 2009

Respectfully submitted,



David Pelz